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OLC # 78-3223
17 OCT 1978

MEMORANDUM FOR : Deputy Director of Central Intelligence

VIA : Legislative Counsel

FROM : S. D. Breckinridge

SUBJECT : HSCA Request for DCI Appearance in December

1. Action Requested: There is a recommendation for your approval in paragraph 7 below.

2. Background: Mr. Blakey, Chief Counsel and Staff Director of HSCA, has renewed the request that the Director appear before the Committee during the first or second full week of December. This will be between 4 and 15 December, the time to be settled. The plan is that the Attorney General, the Director of the FBI, and the head of the Secret Service will also be asked to appear.

3. Mr. Blakey outlined in sketchy fashion the subject matter the Committee would like to have covered. It differs in some respects from that suggested by him when they were planning for a September appearance. He still wishes the Director to speak on the Agency as it is today, but with the emphasis on the present and the future, rather than in contrast to the 1960s. Additionally, rather than speaking to specific issues arising out of the HSCA investigation, he now envisions a broader approach to the question of how the Government should react in the event of the assassination of some future President.

4. The general subjects stated by Mr. Blakey were not spelled out by him in much detail. They are listed below, along with some comments as to what would be involved:

(a) Contingency plans - This seems to envision a description of whether--and if so what--the Agency plans to do if some future President or political figure is assassinated. Superficially such a consideration may appear useful, but it is

somewhat unrealistic so far as the Agency is concerned, given the uncertainties that will impact on decisions of what should be done in such an eventuality. Given the Agency's jurisdictional limitations it may be appropriate for any comments on this subject to be limited to possible international emergencies arising from such a development that would be the proper subject of an Agency alert. Beyond that how the Agency should respond would depend on a number of considerations some of which will be touched on below.

(b) What arrangements would there be for interchange of information between the agencies? - We think this reflects the analysis (which we have not yet seen) by one of the young investigators. For instance, he has reviewed disseminations by CIA and has found that an identical practice was not followed for disseminations to the FBI and the Warren Commission. In essence all intelligence and informational reporting (regardless of relevance or value) went to the FBI, while items sent to the Warren Commission would be those deemed significant or relevant. Requests from the Warren Commission for papers were responded to, with some but not all responses being provided to the FBI. While an argument can be advanced that everyone should get everything, this pattern of dissemination probably reflected substantive judgments made at the time supplemented by unrecorded but informal working understandings. It is doubted that a case can be made that the investigation suffered in any respect from the way in which this was handled at the time, although a mechanical analysis may be used to provide criticism of the way it was done. Of course, that the Agency did not report on its assassination plots with the Mafia will be criticized again, as it has been in the past. While the failure to report these is generally criticized today, it probably was not recognized at that time as having any relationship to the investigation. The question is probably imprecise, as phrased, reflecting attitudes in the HSCA Staff, and it is appropriate to clarify this in statements to the Committee if the subject is addressed.

(c) Arrangements for coordination - This refers to how the various investigative and/or intelligence agencies would coordinate their activities in investigating a possible future Presidential assassination. It probably reflects a perceived need for better arrangements than the HSCA

believes existed during the Warren Commission inquiry. We believe that exisiting arrangements with the Bureau are generally adequate and that any special working arrangements that would be devised for a special inquiry would meet the perceived needs at that time. It is safe to predict that however well it seemed to work at the time flaws could be detected with the advantage of hindsight; for example, we see defects in certain HSCA approaches to the Agency. Some of the practical considerations should be noted: CIA has no law enforcement functions inside the United States; even though CIA has authority to function overseas it does not, as a practical matter, employ techniques that might be equated with an open and far-ranging police-type investigation (in fact, during the Warren Commission investigation the FBI had to do much of that work in Mexico City); any advance planning or coordination would obviously be subject to adjustment depending on decisions as to how an investigation would be conducted. The intent of the question is good, but its phrasing suggests contrived machinery that may not fit the problem at the time.

(d) Should there be any Warren Commission or similar investigating body? This question of course arises from the presupposition that there will be another Presidental assassination and it also presupposes certain special conditions. For instance, if Lee Harvey Oswald had not been killed could a Presidential or Congressional investigation have free rein at the same time that he defended himself in a jury trial. And whose jurisdiction would prevail? There may be political or international considerations, in the event of a future Presidential assassination, that would impact strongly on any decision on how the matter would be handled. If there were to be something more than a regular law-enforcement investigation, the important thing would be to get a large enough number of mature and experienced professionals, with adequate leadership, with sufficient time and money, to ensure the best result. What mix there should be of persons from non-governmental walks of life and experienced persons from Government, cannot be preetermined realistically. Perhaps, however, the shape of such an investigation should be anticipated.

5. Conclusions: We should accept the invitation for either the Director of Central Intelligence or his Deputy to reserve the right to

address the Committee on subjects of our own choosing, from our own point of view, as well as those suggested by Mr. Blakey.

6. Attached is a draft statement prepared in anticipation of a number of topics that may seem appropriate to handle in a presentation to this Committee within its charter. As written it suggests a way to speak on the Agency of yesterday and today, as well as a number of topics that we think have attracted the attention of the Committee. Some of these topics may be dropped in the end, if the issues fade away. Topics suggested by Mr. Blakey, as commented on above can be added and folded into the statement. The draft is intended as a starting point, subject to modification as events unfold.

7. Recommendation: It is recommended that a decision be taken to accept the invitation for the Director to speak to the Committee in early December and that guidelines for the formal statement be set, using the attached draft and the above comments as a point of departure.

STATINTL

[redacted]

S. D. Breckinridge

OLC/SDBreckinridge

OLC/SDBreckinridge:hfs(17 Oct. 78)
Distribution:
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STATINTL 1 - DC/PCS/LOC [redacted] w/att
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DRAFT

Mr. Chairman and Members of the Committee,

It is a privilege to have the opportunity to appear before you in these hearings. It is my understanding that, in planning the hearings the Committee envisioned my making something of a statement on CIA today, as distinguished from the way it was in the middle 1960s, the period in which the Agency's records are of particular interest to you. I can also address some of the subjects that appear to have attracted your interest in the course of the investigation.

At the outset let me emphasize that it is not my intention to engage in any comparisons, invidious or otherwise. The normal process of evolution has worked its way within the Agency in the past 14 or 15 years. The resulting changes should be viewed in the context of change itself. Any dynamic organization does change with the temper of the times and this is particularly true in the case of Government agencies, especially in response to the policy postures of the Government. The CIA is a dynamic organization and one of its strengths has always been its responsiveness to new requirements and of Governmental direction.

It must be remembered that CIA was created following World War II, at the beginning of what came to be known as the Cold War. In addition to its role of collection and analysis of intelligence CIA was tasked immediately to perform a range of activities for which there was no real

precedent and for which no clear terms of reference were available. Yet CIA was required to involve itself in programs aimed at countering various organized communist initiatives attacking Western governments and institutions. That part of its mission involved clandestine operations which would be unfamiliar to most Americans, but which were necessary then. Some of them continue today, if in very reduced form.

During the tense confrontations of the Cold War a national consensus perceived a direct threat to our country and its allies, and to many of the cultural values that we associate with Western civilization. Revisionist historians take issue with that view today, but the absorption of East Europe in the Communist Bloc was viewed by most Americans as part of an expansionist policy on the part of the Soviet Union. That view was reinforced by communist attempts to subvert and bring down the societies of Western Europe. The Korean War, whatever its origins, made an important impact on national policy. Regardless of current arguments over the judgments of American leaders in those days, the fact remains that major rearmaments and international programs were the policy reaction. If the tense days of direct confrontation as we knew them in the 1950s and 1960s are past, the long-range objectives of the Soviet Union

appear unchanged. The strategy has changed and the tensions have been reduced, which has permitted a modification of our own national posture. But even with these reductions of tensions the steady expansion of Soviet military capabilities, joined with the periodic reiteration of their long-range objectives, make our own national security a continuing major concern for policymakers. In this context, even if many of the activities assigned to CIA during the Cold War are no longer felt necessary--and many of them have been dropped--CIA continues to have a key role in the total governmental structure of our national security.

It has become popular to criticize CIA for its activities during the Cold War. It should be noted that essentially all the large controversial activities carried out by the CIA were the direct result of specific instructions from a Governmental level. It is correct to observe that as part of the national consensus of the times, to which I referred earlier, the Executive Branch of the Government and the Congressional Branch of Government were partners in those activities to a degree that sometimes is difficult to recall today. If the form of that partnership has been modified it is safe to say that today, in its place perhaps, there is an extensive and active Congressional oversight that brings with it a form of direct Congressional responsibility that may not have been exercised in the past.

During those dramatic years of intense Cold War confrontation I was pursuing my career as a professional naval officer. At the time of the assassination of President Kennedy, and during the Warren Commission investigations, I was serving as a systems analyst in the Office of the Secretary of Defense. This assignment had been preceded by a command at sea. My familiarity with those events was little more than any other citizen might gain from the media.

When I first came to my new post as Director of Central Intelligence, my knowledge of the Agency was primarily that derived from newspaper accounts and limited experience with some of its intelligence reporting. I have learned much about it in the nearly two years I have been there. My own experience since becoming Director has been one of a continually growing appreciation for the remarkable professional qualities of its employees and their high standards of personal and public integrity.

It is not difficult to recognize the many and varied talents in this organization. It has been difficult, however, to convey to the public a balanced picture of the organization, because of the necessary secrecy that surrounds much of what it does. It has been said so many times that it risks becoming trite--but it is worth saying again--that the Central Intelligence Agency can easily

staff the faculty of an institution of higher learning. Its scholarly researchers, specialists in many walks of life, technicians, and its creative scientists constitute a remarkable national resource. I like to think that this has been made clear often enough to be generally recognized.

It is in the world of clandestine operations, with which so few of us have experience, that it has been most difficult for the media and the public to develop a basis for a balanced appreciation of CIA's activities. It is often said that our successes in this work cannot be described, and that is as it should be. It also has been said that our failures are called out from the roof tops, and indeed they have been; but not everything that is controversial has necessarily been either wrong or a failure, and some public treatment has not discriminated between the two.

Since I am on this, I think recognition should be given an important fact. In the course of the public disclosures, reported in the context of the various investigations, there seemed to be an impression that those activities generally considered as improper were going on at the time they were reported. The fact is that none of the so-called abuses were going on at the time of the investigations. All of them had been identified and chronicled by CIA, itself, over the years preceding the investigations,

and had been the subject of corrective action. It recognized that it was operating in uncharted waters, and that the sense of urgency of the times could lead to error. Steps were taken to keep activities under review in order to judge their basic propriety, and to keep them in bounds. The point is that the management of the Agency over the years recognized its special responsibility to actively police itself. As a result, those activities that attracted later attention had in fact been terminated or redirected into proper channels. It is regrettable that in the drama of exposés this important part of the picture did not emerge along with the sensationalized disclosures. In this context, it is worth noting that the genesis of many of the new guidelines applied in the intelligence community today was in a set of instructions issued by a former Director well before the investigations focused public attention on these matters. The point is that CIA has been uniquely responsible in organizing the review and control of its own activities.

I noted the uncertainties in clandestine operations, and the chance of error under the press of urgency. The chance of mistake often is greater than we would choose if the choice were ours. But action is necessary if there is a brief opportunity for an intelligence achievement overseas. It may involve a need to evaluate the intentions

of a foreign power that is carefully concealing its plans. Or it may involve the question of what the other nations are doing in the sometimes shadowy world of intelligence operations. It is in the context of such uncertainties that I wish to discuss the Nosenko case.

As you must recognize, I cannot go back in time and address every incident in the past. While it may be helpful for my perspective and understanding to know the past, my responsibilities are in the present and future, which necessarily demand most of my time. I will not attempt to review the detail already related to you on this case, but it is one of those events of the past that I have reviewed. I have not attempted to master all the details of it, but I can make some general statements that are appropriate at this time.

First, it is clear that it is one instance in which Agency officers displayed something less than the high professionalism on which the Agency rightly prides itself.

Because there were early doubts about whether or not Mr. Nosenko was a bona fide defector, as distinguished from a dispatched agent with the mission of deceiving us about various things, the decision was to gain his confession by intensive interrogation. Unfortunately, the intensity of this approach resulted in a less careful development of

the record than otherwise would have been the case. Mistranslations created a record that provided the basis for confusing cross-examination on what he seemed to have said (in contrast to what he recalled having said and what he actually said). As the procedure progressed mistakes in the record were compounded by attempts to trip him up with apparent inconsistencies. One can imagine the record that would grow out of an individual's attempt to cope with such errors. It is apparent that much of that record is unreliable, so far as traditional lines of questioning are concerned.

Out of the early handling of the case came an unresolved question. Mr. Nosenko would not admit to what his interrogators suspected him of being. He held to his position. Consider his dilemma--without reference to the strange position in which he found himself. If a bona fide defector, he dare not confess to being otherwise, however much he may have wished to escape the circumstances in which he found himself. Were he to confess to being a false defector to escape his plight, and was not, and we returned him to the Soviet Union, that was the equivalent of his death warrant. So, however, desperate he may have become on occasion, he had to stick it out, which he did. Consider the dilemma and place yourself back in time to early 1964, as though you had to handle the case. The President had

been assassinated, and there was concern over whether or not there was Cuban or Soviet involvement. Here was a man who claimed to know that the KGB did not have an operational relationship with the assassin. Without the benefit of hindsight, what course of action would you have taken to test that statement? There were only so many questions to be asked about Oswald, and inconsistencies developed on that score that could not be resolved. An investigation could not be conducted in the Soviet Union. CIA officers decided to force his admission that he was a dispatched agent. Unfortunately suspicion hardened into resolve, and the case extended indefinitely because he did not confess.

Mr. Nosenko did not break, and the Agency could not resolve the question of what he was. One question requiring early action arose from the fact of Mr. Nosenko's statements about Oswald. This was in addition to the information that otherwise would be of great interest to us. Mr. Helms briefed Chief Justice Warren on the case, setting out the reservations that existed about the source. As a result the Warren Commission did not factor into its findings what Mr. Nosenko said. And what was the significance of that?

First, had Mr. Nosenko's statements about Oswald been accepted at that time, it would at least have reinforced the eventual finding of the Commission that there was no

evidence of ties between Oswald and the KGB. More generally, if Mr. Nosenko's bona fides were finally accepted, what would be the significance? First the statements would no longer be the issue they had been. To the extent they were accurate they would confirm the Warren Commission. To the extent they were inaccurate it made little difference in how he would be handled subsequently.

In 1967 Mr. Helms ordered an independent and fresh review of the matter to see if it could not be settled. This started the process that led to eventual acceptance of his bona fides as a defector. Over the years since then the decision on his bona fides has been convincingly supported by impressively valuable information, the details of which remain sensitive and classified to this date.

The troublesome aspect of the case is that it involved excesses on the part of certain officers responsible for handling it. Their doubts about Mr. Nosenko hardened into unyielding resolve, and something of a form of zealotry developed. As a result Mr. Nosenko suffered what the Rockefeller Commission referred to as "solitary confinement under extremely spartan living conditions." It involved three years of unusual isolation and interrogation.

When Mr. Helms approved the initial extension of Mr. Nosenko's detention I am informed that he instructed

that there be no physical abuse. While Mr. Nosenko was not beaten or manhandled, he was nevertheless placed under stringent controls. I am advised that the details of the more stringent measures were not made known to Mr. Helms. In fact, when asked to approve interrogation of Mr. Nosenko with the assistance of sodium amytol, he rejected the recommendation. In the end, it was Mr. Helms who ordered the independent review that led to the resolution of the case. If Mr. Helms still holds reservations about Mr. Nosenko, it was nevertheless his initiative that permitted the case to reach its eventual conclusion.

The Nosenko case, while unique in itself, does illustrate how inflexible resolve and zealotry can lead to error. It provides an example of what can go wrong and is used for that purpose today. STATINTL [redacted] who spoke to you on September 15th, has lectured various Agency groups on the case. The intention is that the example set benchmarks in the minds of our officers, who often are confronted with unusual situations for which there are no relevant precedents.

The case was unusual, and complex. That it was properly resolved finally is to the good. That it contains lessons for the future means that we continue to learn from experience. But more importantly, that the United States has gained a good citizen in Mr. Nosenko, valuable to his new country in ways few of us have a chance

to be, should in no way be overlooked. The emphasis should be on what he has done for his new country, and not on whether he holds answers to all the questions one may wish to ask about the assassination of President Kennedy.

Of course, although it was not specified in the subjects I was asked to address in this hearing, I assume that you are interested in what I have to say about other issues addressed in the investigation. Again, what I know is based on what I have learned since joining CIA, and that is not the result of any special study on my part.

At the time of the assassination of President Kennedy, for CIA there were two general areas of inquiry. One of these had to do with Lee Harvey Oswald. The other was what might be picked up abroad.

CIA had little information about Lee Harvey Oswald. It had opened a counterintelligence file on him as the result of a Department of State request for information on a number of Americans who had defected to the Soviet Union. We must remember that Oswald was virtually an unknown, and his file was a most routine record serving administrative convenience. Some of the information in the Agency found its way to that file and some remained in other places in the Agency. At some point following the assassination of President Kennedy the information on Oswald was consolidated in one file where it has been reviewed a number of times. This so-called "Oswald file" actually became a record of

much of what the Agency did during the Warren Commission investigation. The Committee's representatives had access to those records as well as to many files that might in some way relate to the subject of the investigation. It was said by Mr. McCone, who was the Director at the time, and I repeat it now--Lee Harvey Oswald had no relationship with the CIA, directly or indirectly. Had there been, there would be some record or memory of it.

At the time of the assassination CIA was able to gather information from the European area concerning Oswald's travel back to the United States from his stay in the Soviet Union. It was also able to provide reporting from around the world on the reaction of Communist Bloc representatives abroad. Perhaps the primary focus of attention, in which CIA had a contribution to make, was the brief visit that Lee Harvey Oswald made to Mexico City from 27 September until early 2 October 1963. It should be recalled that he was virtually unknown at that time, and it is remarkable that he left much of a trace at all. He was only one of the thousands of American citizens who visited there.

At the time of the Oswald visit to Mexico City, CIA was able to report that an American by the name of Lee Oswald had been in touch with the Soviet diplomatic installation seeking a visa. The routine report to Washington

resulted in similar routine notices passed within the intelligence community. A tentative physical description of Oswald, based mistakenly on a photograph that someone thought might be the man in question, led to some confusion that has continued to this day. The simple fact is the identity of the man in the photograph has never been discovered and that person, who apparently had nothing to do with any of these events, became by mistake a mysterious figure on the stage of history. Although the irrelevance of the photograph was established long ago, it has continued to provide amateur sleuths with a subject for speculation.

My comments on this must be general, and I hope they are not too cryptic, but it is significant to know that the hard evidence of Lee Harvey Oswald's contacts with Soviet and Cuban installations in Mexico City came from

STATINTL [redacted] Because of this information it was possible for the Mexican authorities to identify and question the Mexican employee of the Cuban Consulate who was able to provide information about those contacts.

CIA is not in a position to conduct the usual police-type investigations. Its representatives cannot go about interrogating a wide range of persons. It is my understanding, instead, that the FBI, working with the Mexican authorities, was able to do much of this. As a result Lee Harvey Oswald's travel to and from Mexico City was

fixed in time, and he was identified by a number of persons who saw him. Propaganda attempts by the Cubans to suggest that this person was someone else certainly serves a purpose other than that of your Committee.

CIA provided other reporting, some of which was subsequent to the completion of the Warren Commission report. I understand that your Committee has followed up on some of these by interviews of various persons who claim to have seen Oswald during his time in Mexico City.

CIA reporting procedures during the Warren Commission investigation varied, depending on the occasion of the reporting. There were expressions of interest by the Warren Commission, which led to papers prepared specially in response to an expressed interest. Depending on the nature of the request, these may have been sent to the Warren Commission alone or they may have been sent to the FBI and others as well. Similarly, informational or intelligence reporting was distributed to the FBI, which had the primary responsibility for supporting the Warren Commission investigation. Sometimes selected copies of those reports were provided to the Commission; as much of it was not central to the issues not all of it would necessarily go to the Warren Commission. These selections of distribution would be based on judgments of interest,

and working understandings at the time, rather than some unthinking mechanical arrangement.

It is my understanding that cooperation between the Bureau and the Agency at that time was at an especially high level. I have seen a telephone transcript of a conversation between Mr. McCone and Director Hoover in which Mr. McCone pledged his support to Mr. Hoover and expressed his satisfaction for the Bureau's being assigned the responsibility of the investigation. Everything I have seen indicates that this set the tone for the way things were handled.

I am not an expert on all of the theories concerning the assassination of President Kennedy. I am aware that it has proven a thriving industry for all manner of persons. So far as the Agency is concerned, its performance during that period was a good one. It sought information that might be relevant to the assassination. It found no evidence of ties between Lee Harvey Oswald and any foreign powers, probably--I suggest--because there was none. It should be realized that CIA could not be expected to find evidence that bore on every theory and possibility that might arise; if something never did happen there obviously would be no evidence at all.

In the years following the Warren Commission investigation, there is one theory that has received some credence that I will refer to as the "provocation theory." In essence, this is that activities of the Kennedy Administration may have provoked some foreign power to get Lee Harvey Oswald to kill the President. Recognized in general terms at the time, in more recent years CIA activities have been suggested as possibly falling under this theory.

The argument has been made in the past few years that CIA should have reported to the Warren Commission its various activities directed against Castro's Cuba, and more particularly the plotting against Castro himself. The argument goes that these operations may have been insecure, that Castro could have learned of them, and that in retaliation he could have dispatched Lee Harvey Oswald. Oswald's known radical proclivities were seen as making him a logical instrument of such an action. Current reasoning seems to be that this possibility should have been perceived then, and all activities reviewed for reporting to the Warren Commission.

A badly-flawed report of another investigation selected the Agency relationship with a Cuban known as AMLASH, seeking to make the case that CIA failed in its responsibility to tell the Warren Commission about it. The report asserted

that CIA had plotted with the man to assassinate Fidel Castro, arguing that Castro may have learned this and sent Oswald by way of retaliation. First, while CIA did have an association with AMLASH during the life of President Kennedy it had no arrangements of any sort with him and had specifically told him that he would be given no support of any sort unless and until on his own he had a successful coup of his own. CIA's review of this matter has been seen by representatives of your Committee. As I trust you are aware, the conclusion of that review is that while the case advanced by that report was in error, because of factual misrepresentation, there was some general merit in a broad concept advanced by the report. The CIA study made the point that while no one really considered at the time of the Warren Commission inquiry that CIA activities had anything to do with the assassination, it would have added to the credibility of the Warren Commission investigation had someone perceived then the concept that developed later. The CIA review was conducted in late 1976 and 1977 and, while it considered additional activities as well as the AMLASH activity, it found no evidence of a connection between those activities and Oswald's act.

I think it far more reasonable to view this issue as simply the development of a perception that was not really

considered at that time. It may be popular in some circles to ascribe low motives to CIA's not having reported on everything that it did on the long chance someone might find sinister significance in it. But it simply was not considered relevant at that time, and the exhaustive review that I just referred to has found no connection now. As I say, your investigators have had access to that report as well as conducting an extensive review of the various operational activities. As thoroughly as they have reviewed the matter I am sure they have found no such connection.

By normal standards, CIA's contribution to the inquiry of President Kennedy's assassination was limited to these things within its jurisdiction to provide. And that is limited to both its rather sharply focussed resources in foreign lands and the limitations it must observe in employing normal police investigative techniques. While broad theories are intriguing, in the end they must rest on fact.

In summary the two areas that attracted the Committee's attention to CIA seem to have been the Nosenko case, because of his knowledge of Lee Harvey Oswald, and what Oswald did in Mexico City during his brief bisit there a month-and-a half before the President's assassination.

The Nosenko case had no affect on the Warren Commission findings because of the unresolved question of his bona fides

at that time. The eventual resolution of his case added nothing new to the understanding of the matter.

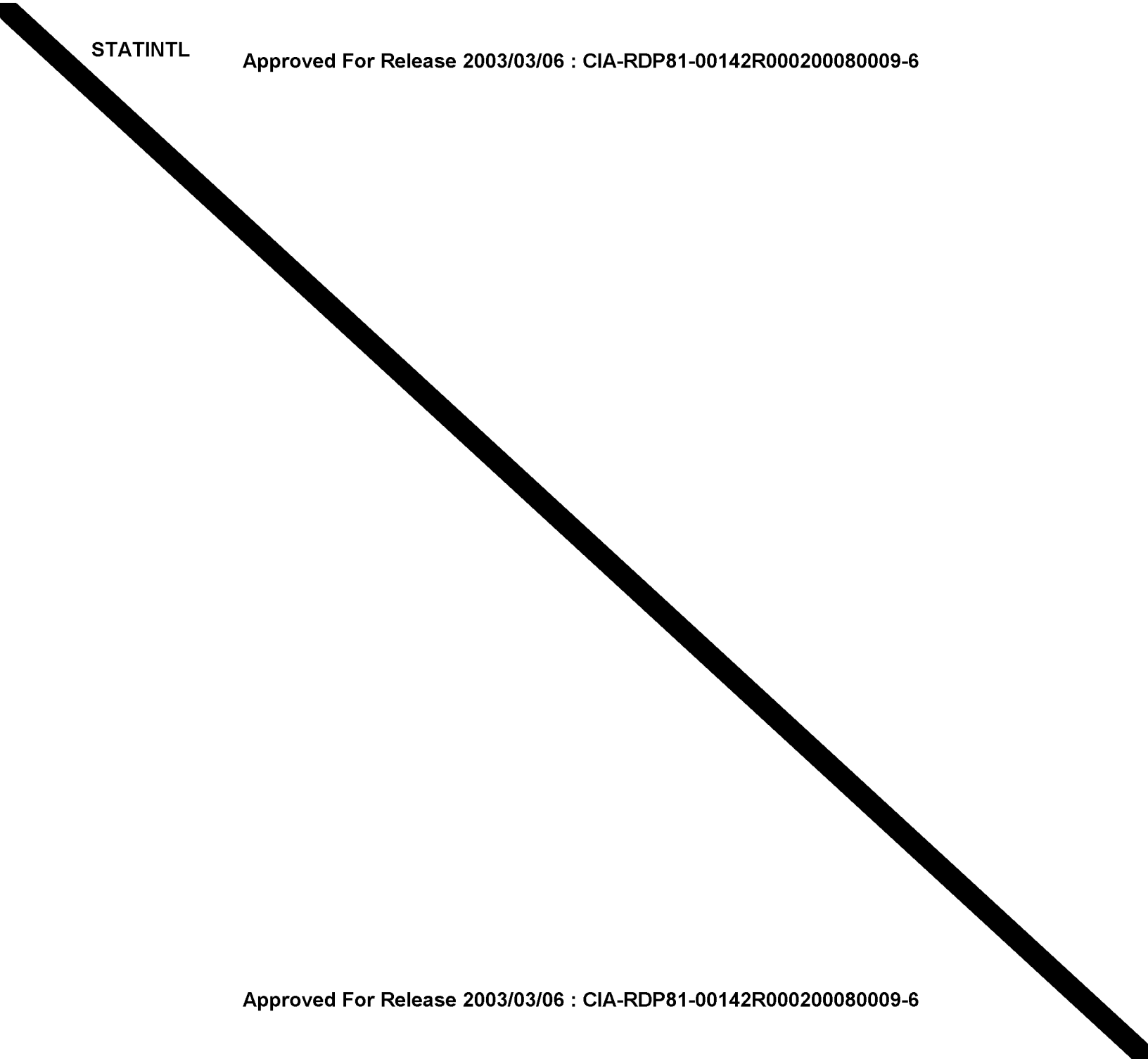
In Mexico City, intelligence reporting was the basis for knowledge about [redacted] STATINTL

STATINTL [redacted] That was the significant part of his visit there and that information was available.

The Committee has had extensive access to Agency files. If the memories of individuals have been rendered uncertain by the passage of a decade-and-a-half, you nevertheless have had access to those persons who had some familiarity with different aspects of the matter. It is difficult to reconstruct all events with much confidence after all this time, but I am sure this is but one of the problems that face you after all this time.

So far as CIA is concerned, we believe that our contribution to the information on Lee Harvey Oswald--which was central to the investigation--was an important contribution then, as it remains today.

CIA then, and today, is a highly professional place, responsive to governmental direction and policy. Its employees do their jobs well, as highly qualified and loyal Americans. That some of that work is done under unusual conditions does not detract from its quality; it only makes it more difficult. We should be thankful that we have such an organization. I, for one, am proud of my association with it.



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